



Sec. 212.1. Truck Owner-Operator

(a) The term "employment" shall not include services performed by an individual as an operator of a truck, trucktractor, or tractor, provided the person or entity to which the individual is contracted for service shows that the individual:

(1) Is either:

(i) Registered or licensed as a motor carrier of real or personal property by the Illinois Commerce Commission, the Interstate Commerce Commission, or any successor agencies, or

(ii) Operating the equipment under an owner-operator lease contract with the person or entity, when the person or entity is registered, licensed, or both, as a motor carrier of real or personal property licensed by the Illinois Commerce Commission, the Interstate Commerce Commission, or any successor agencies; and

(2) Has the right to terminate the lease contract and thereafter has the right to perform the same or similar services, on whatever basis and whenever he or she chooses, for persons or entities other than the person or entity to which the individual is contracted for services;

(3) Is not required by the person or entity to which the individual is contracted for services to perform services, or be available to perform services, at specific times or according to a schedule or for a number of hours specified by the person or entity, provided that pickup or delivery times specified by a shipper or receiver shall not be deemed specified by the person or entity;

(4) Either leases the equipment or holds title to the equipment, provided that the individual or entity from which the equipment is leased, or which holds any security or other interest in the equipment, is not:

(i) The person or entity to which the individual is contracted for service, or

(ii) Owned, controlled, or operated by or in common with, to any extent, whether directly or indirectly, the person or entity to which the individual is contracted for services or a family member of a shareholder, owner, or partner of the person or entity;

(5) Pays all costs of licensing and operating the equipment (except when federal or State law or regulation requires the carrier to pay), and the costs are not separately reimbursed by any other individual or entity; and

(6) Maintains a separate business identity, offering or advertising his or her services to the public, by displaying its name and address on the equipment or otherwise.

(b) Subsection (a) shall not apply:

(1) If, as a condition for retaining the individual's services, the person or entity to which the individual is contracted specifies the person or entity from which the equipment is to be leased or purchased; or

(2) To any services that are required to be covered as a condition of approval of this Act by the United States Secretary of Labor under Section 3304(a)(6)(A) of the Federal Unemployment Tax Act.

(c) Nothing in this Section shall be construed or used to effect the existence or non-existence of an employment relationship other than for purposes of this Act.

(d) For purposes of this Section:

(1) "Family member" means any parent, sibling, child, sibling of a parent, or any of the foregoing relations by marriage.

(2) "Ownership", "control", or "operation" may be through any one or more natural persons or proxies, powers of attorney, nominees, proprietorships, partnerships, associations, corporations, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(3) "Person or entity" means a sole proprietorship, partnership, association, corporation, or any other legal entity.